

## § 396.5

and maintenance operations to be performed;

(3) A record of inspection, repairs, and maintenance indicating their date and nature; and

(4) A record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses.

(c) *Record retention.* The records required by this section shall be retained where the vehicle is either housed or maintained for a period of 1 year and for 6 months after the motor vehicle leaves the motor carrier's control.

[44 FR 38526, July 2, 1979, as amended at 48 FR 55868, Dec. 16, 1983; 53 FR 18058, May 19, 1988; 59 FR 8753, Feb. 23, 1994; 59 FR 60324, Nov. 23, 1994; 73 FR 75824, Dec. 17, 2008]

## § 396.5 Lubrication.

Every motor carrier shall ensure that each motor vehicle subject to its control is—

- (a) Properly lubricated; and
- (b) Free of oil and grease leaks.

## § 396.7 Unsafe operations forbidden.

(a) *General.* A motor vehicle shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.

(b) *Exemption.* Any motor vehicle discovered to be in an unsafe condition while being operated on the highway may be continued in operation only to the nearest place where repairs can safely be effected. Such operation shall be conducted only if it is less hazardous to the public than to permit the vehicle to remain on the highway.

## § 396.9 Inspection of motor vehicles and intermodal equipment in operation.

(a) *Personnel authorized to perform inspections.* Every special agent of the FMCSA (as defined in appendix B to this subchapter) is authorized to enter upon and perform inspections of a motor carrier's vehicles in operation and intermodal equipment in operation.

(b) *Prescribed inspection report.* The Driver Vehicle Examination Report shall be used to record results of motor vehicle inspections and results of intermodal equipment inspections con-

## 49 CFR Ch. III (10–1–12 Edition)

ducted by authorized FMCSA personnel.

(c) *Motor vehicles and intermodal equipment declared "out-of-service."* (1) Authorized personnel shall declare and mark "out-of-service" any motor vehicle or intermodal equipment which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "out-of-Service Vehicle" sticker shall be used to mark vehicles and intermodal equipment "out-of-service."

(2) No motor carrier or intermodal equipment provider shall require or permit any person to operate nor shall any person operate any motor vehicle or intermodal equipment declared and marked "out-of-service" until all repairs required by the "out-of-service notice" have been satisfactorily completed. The term *operate* as used in this section shall include towing the vehicle or intermodal equipment, except that vehicles or intermodal equipment marked "out-of-service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of an emergency towing vehicle and an "out-of-service" vehicle shall not be operated unless such combination meets the performance requirements of this subchapter except for those conditions noted on the Driver Vehicle Examination Report.

(3) No person shall remove the "Out-of-Service Vehicle" sticker from any motor vehicle or intermodal equipment prior to completion of all repairs required by the "out-of-service notice."

(d) *Motor carrier or intermodal equipment provider disposition.* (1) The driver of any motor vehicle, including a motor vehicle transporting intermodal equipment, who receives an inspection report shall deliver a copy to both the motor carrier operating the vehicle and the intermodal equipment provider upon his/her arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle or at a facility of the intermodal equipment provider within 24 hours, the driver shall immediately mail, fax, or otherwise transmit the report to the motor carrier and intermodal equipment provider.

(2) Motor carriers and intermodal equipment providers shall examine the report. Violations or defects noted thereon shall be corrected. Repairs of items of intermodal equipment placed out-of-service are also to be documented in the maintenance records for such equipment.

(3) Within 15 days following the date of the inspection, the motor carrier or intermodal equipment provider shall—

(i) Certify that all violations noted have been corrected by completing the “Signature of Carrier/Intermodal Equipment Provider Official, Title, and Date Signed” portions of the form; and

(ii) Return the completed roadside inspection form to the issuing agency at the address indicated on the form and retain a copy at the motor carrier’s principal place of business, at the intermodal equipment provider’s principal place of business, or where the vehicle is housed for 12 months from the date of the inspection.

[73 FR 76824, Dec. 17, 2008, as amended at 75 FR 17252, Apr. 5, 2010; 77 FR 28451, May 14, 2012]

#### **§ 396.11 Driver vehicle inspection report(s).**

(a) *Equipment provided by motor carrier.* (1) *Report required.* Every motor carrier shall require its drivers to report, and every driver shall prepare a report in writing at the completion of each day’s work on each vehicle operated, except for intermodal equipment tendered by an intermodal equipment provider. The report shall cover at least the following parts and accessories:

- (i) Service brakes including trailer brake connections;
- (ii) Parking brake;
- (iii) Steering mechanism;
- (iv) Lighting devices and reflectors;
- (v) Tires;
- (vi) Horn;
- (vii) Windshield wipers;
- (viii) Rear vision mirrors;
- (ix) Coupling devices;
- (x) Wheels and rims;
- (xi) Emergency equipment;

(2) *Report content.* The report shall identify the vehicle and list any defect or deficiency discovered by or reported to the driver which would affect the safety of operation of the vehicle or re-

sult in its mechanical breakdown. If no defect or deficiency is discovered by or reported to the driver, the report shall so indicate. In all instances, the driver shall sign the report. On two-driver operations, only one driver needs to sign the driver vehicle inspection report, provided both drivers agree as to the defects or deficiencies identified. If a driver operates more than one vehicle during the day, a report shall be prepared for each vehicle operated.

(3) *Corrective action.* (i) Prior to requiring or permitting a driver to operate a vehicle, every motor carrier or its agent shall repair any defect or deficiency listed on the driver vehicle inspection report which would be likely to affect the safety of operation of the vehicle.

(ii) Every motor carrier or its agent shall certify on the original driver vehicle inspection report which lists any defect or deficiency that the defect or deficiency has been repaired or that repair is unnecessary before the vehicle is operated again.

(4) *Retention period for reports.* Every motor carrier shall maintain the original driver vehicle inspection report, the certification of repairs, and the certification of the driver’s review for three months from the date the written report was prepared.

(5) *Exceptions.* The rules in this section shall not apply to a private motor carrier of passengers (nonbusiness), a driveaway-towaway operation, or any motor carrier operating only one commercial motor vehicle.

(b) *Equipment provided by intermodal equipment provider.* (1) *Report required.* Every intermodal equipment provider must have a process to receive driver reports of, and each driver or motor carrier transporting intermodal equipment must report to the intermodal equipment provider or its designated agent, any known damage, defects, or deficiencies in the intermodal equipment at the time the equipment is returned to the provider or the provider’s designated agent. The report must include, at a minimum, the following parts and accessories:

- (i) Brakes;
- (ii) Lighting devices, lamps, markers, and conspicuity marking material;
- (iii) Wheels, rims, lugs, tires;